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Micheal Flamm and Jose Garcia*

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

PAUL SCOTT KLEIN,  
  
Plaintiff,  
  
v.  
  
MICHAEL FLAMM, *et al.*,  
  
Defendants.

Case No. 3:23-cv-00337-ART-CSD

**MOTION FOR 2-DAY EXTENSION  
TO FILE DISPOSITIVE MOTION  
ECF NO. 41  
[THIRD REQUEST]**

Defendants hereby request a 2-day extension to file their Dispositive Motion. This is Defendants' third request for extension of the subject deadline.

**MEMORANDUM OF POINTS AND AUTHORITIES**

**I. PROCEDURAL HISTORY**

This civil rights action was brought by offender Paul Scott Klein (Klein), asserting claims arising under 42 U.S.C. § 1983. ECF Nos. 4 & 22. Klein sues for events that allegedly occurred while he was incarcerated at Northern Nevada Correctional Center (NNCC). *Id.*

Following mandatory screening under the Prison Litigation Reform Act (PLRA), this Court allowed Klein to proceed with one First Amendment retaliation claim against Defendants Micheal Flamm and Jose Garcia. ECF No. 3 at 12:10-11. Klein was later permitted to file a supplemental complaint. ECF No. 22. This Court screened the supplemental complaint as well, allowing Klein to proceed with further claims against Garica. *See* ECF Nos. 23 (R&R screening the supplemental complaint) & 26 (Order

adopting R&R). Discovery closed in this matter on March 17, 2025. ECF No. 35. After a second extension of time (ECF No. 42), dispositive motions are currently due on June 16, 2025. ECF No. 43. Defendants now move for a further two-day extension of this dispositive motion deadline to Wednesday, June 18, 2025. There will be no further requests.

## II. ARGUMENT

Motions to extend deadlines set out in a discovery plan or scheduling order are governed by Fed. R. Civ. P. 16(b)(4) and LR 26-3. To prevail on a motion to extend a scheduling order deadline, the moving party must show “good cause.” *Id.*

To demonstrate good cause, the parties must show “that, even in the exercise of due diligence, [the parties were] unable to meet the timetable set forth in the order.” *Cruz v. City of Anaheim*, CV-1003997-MMM-JEMX, 2011 WL 13214312, at \*2 (C.D. Cal. Dec. 19, 2011) (citing *Zivkovic v. Southern California Edison Co.*, 302 F.3d 1080, 1087 (9th Cir. 2002); *Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992)). Prejudice to the opposing party is a factor in determining good cause, though lack of prejudice is “not a prerequisite.” *Id.*

Defendants seek this third extension of time to file their dispositive motion. Good cause is present to extend the dispositive motion deadline until June 18, 2025. Defendants are still in the process of gathering authenticating declarations needed to support the dispositive motion and expect that those declarations will be completed by June 17, 2025, because of the various NDOC parties’ work schedules. Defendants will not be asking for any more extensions for this deadline.

Accordingly, Defendants respectfully request that the extension be granted for good cause shown. *See Ahanchian v. Xenon Pictures, Inc.*, 624 F.3d 1253, 1260, (9<sup>th</sup> Cir. 2010) (holding that the “district court abused its discretion in denying party’s timely motion” to extend time because the party “demonstrated the ‘good cause’ required by Rule 6, and because there was no reason to believe that [the party] was acting in bad faith or was misrepresenting his reasons for asking for the extension”). No dispositive motion has been

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1 filed by Klein in this matter, and this short extension of time will not prejudice him in  
2 pursuit of his claims.

3 **III. CONCLUSION**

4 Based on the foregoing, and for good cause, Defendants request an extension of time  
5 until June 18, 2025, for the dispositive motion deadline.

6 DATED this 12th day of June, 2025.

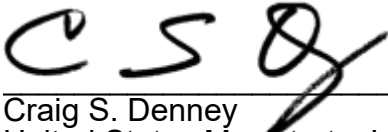
7 AARON D. FORD  
8 Attorney General

9 By: /s/ Nathan M. Claus  
10 NATHAN M. CLAUS (Bar No. 15889)  
Deputy Attorney General

11 *Attorneys for Defendants*

12 IT IS SO ORDERED.

13 DATED: June 13, 2025.

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16 Craig S. Denney  
17 United States Magistrate Judge  
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